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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/537,664

02/28/2006

Jean-Marie Finot

0589-1007

6352

466

7590

01/10/2008

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EXAMINER

SOTELO, JESUS D

ART UNIT

PAPER NUMBER

3617

MAIL DATE

DELIVERY MODE

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/537,664	Applicant(s) FINOT, JEAN-MARIE	
	Examiner Jesús D. Sotelo	Art Unit 3617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 October 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 1-10 are in the application.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1 and 2 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brown (5,315,948) in view of Baudet (6,302,044).

Brown discloses a sail 5 designed to be rolled on a reel. Means 6 is provided and designed to be thicker in cross section along the middle and thinner in the ends creating an additional volume in the central part of the reel. Baudet discloses a sail construction wherein the sail is produced from transverse and longitudinal fibers 24, 26 incorporated between two films 32, 42, generally as in claim 2.

In view of these disclosures, it would have been obvious to one having ordinary skill in the art at the time the invention was made to substitute for the sail of Brown with a sail constructed generally as taught by Baudet. The specific materials used in the fibers and the films are deemed to have been obvious matters of design choice to one having ordinary skill in the art. The motivation for substituting the sail would be to provide a more durable sail.

The recitation "non-deformable in compression" referring to the longitudinal fibers and the transverse fibers are deemed to be statements of desired functional result. The fibers

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of the above combination could be said to be capable of resisting compression, albeit a very small compression force.

4. Claims 1-3, 9, and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Crall (3,749,043) in view of Baudet (6,302,044).

Crall discloses a sail 18 designed to be rolled on a reel 26 . The reel 26 is provided and designed to be thicker in cross section along the middle and thinner in the ends creating an additional volume in the central part of the reel. The reel consists of a generally biconical configuration as shown in figure 3. Baudet discloses a sail construction wherein the sail is produced from transverse and longitudinal fibers 24, 26 incorporated between two films 32, 42, generally as in claim 2.

In view of these disclosures, it would have been obvious to one having ordinary skill in the art at the time the invention was made to substitute for the sail of Crall with a sail constructed generally as taught by Baudet. The specific materials used in the fibers and the films are deemed to have been obvious matters of design choice to one having ordinary skill in the art. The motivation for substituting the sail would be to provide a more durable sail. The recitation “non-deformable in compression” referring to the longitudinal fibers and the transverse fibers are deemed to be statements of desired functional result. The fibers of the above combination could be said to be capable of resisting compression, albeit a very small compression force. To form the sail from a single piece of fabric would have been an obvious matter of design choice to one having ordinary skill in the art.

5. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Crall (3,749,043) in view of Baudet (6,302,044), as applied to claim 1 above, and further in view of Nic (Fr 2,676,984).

The use of slats in sails is well known in the art. Although most slats are arranged perpendicularly to the luff, other configurations are used, as in Nic, wherein the slats are located in an “up-down” configuration and parallel to the luff. To provide the sail of Crall with slats arranged parallel to the luff would have been an obvious matter of design choice to one having ordinary skill in the art. It is noted that Nic was cited by applicant.

6. Claims 5, 7, and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Crall (3,749,043) in view of Baudet (6,302,044), as applied to claim 1 above, and further in view of Shapland (4,269,134).

Shapland discloses a sail mounted on a reel located on the luff. The reel is provided with a fairing forming an aerofoil and having spoilers 27. In view of these disclosures, it would have been obvious to one having ordinary skill in the art to provide the reel of Crall with a fairing generally as taught by Shapland. The use of a fairing would have been desirable to create an aerodynamic structure for the flow of wind around the mast.

Response to Arguments

7. Applicant's arguments filed 10/17/2007 have been fully considered but they are not persuasive.

Applicant argues that neither Brown nor Baudet make reference to longitudinal and transverse fibers in the sail fabric that resist compression. The recitation in the claims of “transverse and longitudinal fibers resistive to compression” merely present a statement of desired functional

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result. Neither the claims nor the disclosure define the amount of compression that the fibers are capable of resisting. The fibers of the sail in Baudet could be said to be made of longitudinal and transverse fibers which resist some degree of compression, however minimal. On the other hand the use of different fibers having different characteristics in the construction of sails is well known in the art. The following link <http://en.wikipedia.org/wiki/Sailcloth> offers a discussion of different types of materials used in the construction of different types of sails.

8. With reference to claim 4, applicant argues that Kettermann does not show the battens parallel to the luff. It is our position that Kettermann properly teaches the arrangement of the slats in a different configuration than just parallel to the foot of the sail. Nonetheless, applicant's cited reference to Nic clearly taught the feature of the slats being parallel to the luff.

9. Although no art was applied to claims 6 and 8, these claims were deemed indefinite as noted in paragraph 3 of the previous Office Action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jesús D. Sotelo whose telephone number is 571-272-6686. The examiner can normally be reached on Mon. – Fri. 6:00 AM – 3:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Samuel J. Morano can be reached on 571-272-6684. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

*/Jesús D. Sotelo/
Primary Examiner
Art Unit 3617*

KNX 03D69 ☺

jds
January 11, 2008